

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PATRICIA HARRIS LEE, : 07 CV 6733 (CM)
Plaintiff, :
v. :
SONY BMG MUSIC ENTERTAINMENT, INC. :
and BARBARA WARNOCK-MORGAN,
Individual, :
Defendants. :
-----X

**MEMORANDUM OF LAW IN SUPPORT
OF DEFENDANTS' MOTION TO DISMISS, OR
ALTERNATIVELY, FOR SUMMARY JUDGMENT**

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Preliminary Statement

This memorandum of law is respectfully submitted on behalf of Defendant SONY BMG MUSIC ENTERTAINMENT ("SONY BMG") and Barbara Warnock-Morgan ("Warnock-Morgan") in support of their motion, pursuant to Rule 12(b)(6), Fed. R. Civ. P., for an order dismissing the Amended Complaint, dated November 29, 2007 ("Amended Complaint") for failure to state a claim upon which relief can be granted or, alternatively, for summary judgment, pursuant to Rule 56(c), Fed. R. Civ. P.

Plaintiff's scattershot Amended Complaint purports to allege federal and state claims for discrimination based on disability, race and/or national origin, and a state-law claim for intentional infliction of emotional distress. The gist of her complaint is that as a result of a heated exchange with her supervisor, Defendant Barbara Warnock-Morgan ("Warnock-Morgan"), Plaintiff suffered severe emotional distress. After SONY BMG's third-party insurance carrier denied her request for disability, Plaintiff failed to return to work. She remains in SONY BMG's employment on unpaid leave status.

Plaintiff's lone allegation that she suffered a stress-related disability because of a single encounter with her supervisor does not state a claim under any federal or state-law that provides remedies for the disabled. Moreover, Plaintiff fails to allege that she requested and was denied a reasonable accommodation. Her claim that she was denied disability benefits does not state a claim under the federal or state disability laws. Plaintiff's hostile work environment claims, based on her subjective reaction to the same single encounter with Warnock-Morgan, are not based on discriminatory animus and do not approximate the severe or pervasive conditions necessary for such claims. Her